IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Income Tax Appeal No. 548 of 2001

1. The Commissioner of Income Tax, Dehradun.
2. Dy. Commissioner of Income Tax (Assessment), SPL-1, Dehradun. …Appellants

Versus

ONGC as agent of
M/s Flow Petrol Intl. S.A.
Dehradun. ….Respondent

Mr. S.K. Posti, Advocate for the appellants.
Mr. J.P. Joshi, Advocate for the respondent.

Coram: Hon. Cyriac Joseph, C.J.
Hon. J.C.S. Rawat, J.

JUDGMENT

CYRIAC JOSEPH, C.J. (Oral)

1. This appeal is against the order dated 9th October 2000 of the Income Tax Appellate Tribunal, Delhi Bench "D" in ITA. No. 1019/Del of 1993. The dispute relates to the Assessment Year 1988-89. The assessee is Flow Petrol Intl. S.A, represented by ONGC., Tel Bhawan, Dehradun.

2. The substantial question of law raised in the appeal is as follows:

> "Whether on the facts and in the circumstances of the case, the learned Income Tax Appellate Tribunal was legally correct in upholding the orders of CIT (A) that there is no scope of Grossing- Up and that the income determined on notional basis in accordance with Section 44 BB of Income Tax Act 1961 was not liable to be Grossed Up U/S 195 A of the Income Tax Act?"

3. An identical question of law was considered by a Division Bench of this Court in the judgment in Commissioner of Income Tax, Meerut and another Vs. ONGC as agent of Cooper Engineering Services International Incorporated and connected cases, which was reported in (2003) 264 ITR 340. In the above judgment, this Court held that the

Tribunal was right in holding that Multiple Stage Grossing Up of income was not applicable to notional income under section 44BB read with section 195A of the Income Tax Act, 1961.

4. Following the above mentioned judgment of a Division Bench of this Court, we dismiss this appeal.

(J.C.S. Rawat, J.)
06.09.2005

(Cyriac Joseph, C.J.)
06.09.2005

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